

(October 1, 2008) Daily Herald Editorial Board: Consider rail merger's community effect

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Considering the current economic crisis, it may not be surprising that federal lawmakers failed over the weekend to pass legislation that could materially affect how proposals like Canadian National Railway's purchase of the EJ&E rail line are approved.

But that doesn't mean the legislation should be allowed to wither.

The bill in question aims to require the federal Surface Transportation Board, the agency charged with approving transactions such as the CN purchase, to include potential community impact when making its ruling.

Currently, the STB focuses primarily on whether a proposal meets transportation needs and what its effect will be on the environment. Supporters of the law argue that this leaves out of the equation people who may be most directly affected by the movement of trains through their communities. Those people, they argue, ought at least be considered in the approval process.

And they are right.

This doesn't mean that community impact should be the chief criterion in a merger ruling, nor that it can be a deal breaker. Transportation needs and environmental impact must surely remain key components of any decision.

But the potential for a rail decision to seriously affect a community's ability to respond to fires, for instance, or life-and-death emergencies is a reasonable point of consideration, just as is the potential for a proposal to improve a community's ability to respond to such emergencies. Even simple matters of convenience - such as whether a proposal will worsen or improve delays moving through a given town - are issues that ought to be weighed against other factors in any proposal.

The impetus for this legislation came from communities angered by the potential negative impact of CN's purchase, but U.S. Rep. Dan Lipinski, a Western Springs Democrat who sits on the House Transportation Committee and supports the EJ&E merger, argued significantly that the bill did not limit the STB to consider how a proposal would hurt a town. It also required the agency to consider how a merger might help some communities.

Whether this legislation could ever affect the CN proposal is in serious doubt. First, it applied to any decision not made by last Aug. 1, so it raised some serious questions about fairness for a process already under way. But also, it still would have to make it quickly through the Senate and get the president's signature. The STB could rule early next year on CN and, for that matter, the rail line says its purchase will fall through altogether if it is not completed by December.

But the proposal's aim is a good one. On a 243-175 favorable vote, it fell over the weekend to rules requiring supermajority approval during a special session. That's unfortunate, but not insurmountable. We hope the bill makes it back for consideration during the regular congressional session when it can get more attention in an atmosphere not quite so poisoned by crisis.

Whether you favor or oppose the CN merger, or other similar proposals that may follow here or elsewhere in the country, it can surely only improve the process to include examination of the harm and benefit a rail proposal will cause to the towns it directly touches.